

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED:16.4.2015

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

WP.No.25989 of 2014

and

MP.No.2 of 2014

T.Kalaimani .. Petitioner
Versus

1. State of Tamilnadu
Rep. by The Secretary to Govt.
Housing and Urban Development
Department Fort St.George Chennai-9.
- 2 The Chairman
Tamilnadu Housing Board
Nandanam Chennai- 35.
- 3 The Managing Director
Tamilnadu Housing Board
Nandanam Chennai- 35.
- 4 The Manager
(Marketing & Service)
Tamilnadu Housing Board
Besant Nagar Division No.48
Dr. Muthulakshmi Salai, Adyar
Chennai-20.
- 5 Sri Ramachandra Educational
and Health Trust Rep. by Managing Trustee
No.25 Sir C.V.Raman Road, Alwarpet,
Chennai- 18. ...Respondents

Writ petition filed under Article 226 of the Constitution of India praying for a writ of certiorari mandamus calling for the records relating to the resolution No.9, 10 dated 01.7.2014 passed by the second respondent and quash the same as illegal and arbitrary and consequently directing the respondents 1 to 4 to cancel the sale deed No.7806 of 2014 executed in favour of the fifth respondent.

For Petitioner : Mr.S.Tamilarasan
for Mr.T.Kalaimani,
party-in-person

For R1 to R4 : Mr.V.Anandha Murthy

For R5 : Mr.N.Anand Venkatesh

ORDER

Heard Mr.S.Tamilarasan, learned counsel for the petitioner, Mr.T.Kalaimani, petitioner, who appeared in person, Mr.V.Anandhamurthy, learned Standing counsel appearing for the respondents 1 to 4 and Mr.N.Anand Venkatesh, learned counsel for the fifth respondent and perused the materials placed on record. With the consent of either side, the writ petition itself is taken up for final disposal.

2. The petitioner seeks for issuance of writ of Certiorarified mandamus to quash the resolution Nos.9 and 10 dated 01.7.2014 passed by the Housing Board and consequently, to cancel the sale deed executed in favour of the fifth respondent Trust bearing No.7806 of 2014.

3. From the averments made in the affidavit, it appears that the petitioner applied for allotment of plot/house in a scheme implemented by the Housing Board and in this regard, application is said to have been made by the petitioner in the year 1988 and was kept pending for a long time. Thereafter, in the year 2005, the petitioner was informed by the Board that he has to apply, pursuant to the notification. It is stated that thereafter, the petitioner came to know that vast extent of land was given away to the fifth respondent and in this regard, the petitioner has produced certified copy of the sale deed executed in favour of the fifth respondent Trust. Now the petitioner has come forward with this writ petition challenging the Resolution and the sale deed.

4. Counter affidavit has been filed by the Housing Board contending that total extent of 96.92 acres of land was acquired in Thiruvanniyur village for the formation of Besant Nagar Phase II Scheme and acquisition was initiated in 1978 by issuing notification under Section 4(1) of the Land Acquisition Act. The declaration under Section 6 was also issued vide G.O.(Ms.) No.667, Housing and Urban Development Department dated 06.8.1981, and published in Government Gazette dated 08.8.1981. Thereafter, the land acquisition Officer passed several awards during May 1986 to September 1986 awarding various sums of money as

compensation to the original land owners. It is stated that the petitioner in his letter dated 05.8.2008 has requested to allot a plot under public quota for social workers in S.No.78/7, 78/8 of Thiruvanniyur Village, which was acquired by the Housing Board. It is further stated that the petitioner has not chosen to apply for any other announced schemes but he requested for allotment in a particular survey number, which was not advertised by the Board. The petitioner further requested for allotment of plot in general without any scheme being advertised at Thiruvanniyur village. Therefore, the Board could not allot plots anywhere as desired by the petitioner.

5. It is further stated in the Counter affidavit that the Government, vide G.O.Ms.No.208, Housing and Urban Development Department (LA- II-1) dated 12.6.1998, have issued orders for the allotment of lands measuring an extent of 7.44 acres comprised in S.Nos.78/7, 78/8, 78/9, 78/10, 78/11, 78/13, 78/14, 86/1, 86/2, 86/3, 102/2, 102/5, 103/6, 103/7, 103/8 and 103/9 of Thiruvanniyur Village, on collection of the land cost as per the prevailing Rules and Regulations of the Tamil Nadu Housing Board said to have been allotted to the 5th respondent Trust. The Board would further state that the land cost was fixed at Rs. 6,01,320/- per ground with interest. Further, it is stated that Housing Board implemented the scheme to an extent of 2.89 acres only and in the year 2000, 20 HIG flats were constructed and sold for which land cost was worked out as Rs.5,03,300/-. Further, it is stated that in the year 2001, Board has constructed 40 HIG flats and the land cost was Rs.5,42,000/-. The Board would justify their action that as per the allotment order and the Government Order, resolution was passed and the land cost has been fixed and pursuant to which, the sale has also been executed. Therefore, the Housing Board would state that the petitioner has not specifically sought for any allotment in the particular scheme and hence, the question of granting relief may not arise.

6. The fifth respondent Trust in the counter affidavit inter alia contended that they were the owners to the extent of 8.94 acres of land out of the total extent acquired and this was purchased by the Trust, without being aware of the land acquisition proceedings. It is further stated that since Thiruvanniyur scheme was dropped by the Housing Board and the land was not utilised by the Housing Board, the Trust made a request to the Government for re-conveyance of land in S.No.78/7, 78/8 etc. It is stated that pursuant to the said request, the Government took a decision to exclude / re-convey the lands, pursuant to the letter given by the Managing Director, TNHB on 03.12.1997. The respondent Board in turn addressed a letter to the Trust on 06.1.1988 calling upon them to make available all title documents and also intimated about the payment. It is stated that after due satisfaction about the

ownership of the land, re-conveyance was made only to an extent of 7.44 acres and the Government thereafter, issued G.O.Ms.No.208 dated 12.6.1998. Taking into consideration of the object for which the lands are sought for, 7.44 acres of land was directed to be allotted to the trust. Therefore, it appears that it is the endeavour of the 5th respondent that they were the owners of the land, having purchased the entire extent of lands, without being aware of the land acquisition proceedings. Hence, after the project was dropped, there is no question of the Housing Board to allot the same to any one.

7. In view of the above, prayer sought for cannot be granted since the impugned resolution is in consequence of the Government Order passed in the year 1988. The said Government Order has not been put to challenge. That apart, writ petition seeks to canvass the case pertaining to the petitioner's personal request and, therefore, on the pleadings mentioned in the affidavit filed in support of the writ petition, the writ petition cannot be treated as Public Interest Litigation. Hence, at this juncture, the prayer sought for by the petitioner is not feasible for consideration.

8. Accordingly, the writ petition is dismissed. However, this will not prevent the petitioner from exercising his right in the manner known to law. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CO)

/true copy/

Sub Asst. Registrar

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To

1. The Inspector General of Registration
Department of Registration
No.100, Santhome High Road,
Chennai - 600 004
2. The Assistant Inspector General / District
Registrar, Department of Registration
Chennai South District,
No.9,1 Jeenis Road, Saidapet, 2nd Floor
Chennai - 600 015

3. The Sub Registrar,
No.36, Bharathamanta Road.
Selaipur, Chennai -600 073.

1 cc to Mr.N. Easwaran, Advocate, Sr. 20734
1 cc to Mr.N. Anand Venkatesh, Advocate, Sr. 20957
1 cc to Mr.V. Anandha Murthy, Advocate, Sr. 20793

WP.No.25989 of 2014

SV (CO)
kk 20/4



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